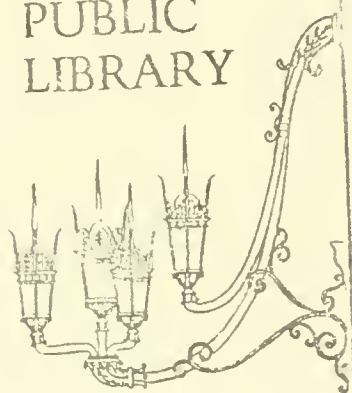


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June 5, 1980

Mr. Marvin Siflinger, Area Director
U.S. Department of Housing & Urban Development
15 New Chardon St.
Boston, MA 02114

Re: Boston's U.D.A.G. Application For Copley Place

Dear Mr. Siflinger:

Presently pending before your agency is an application by the City of Boston seeking an Urban Development Action Grant to construct "Copley Place." On behalf of several groups who represent low-income and minority persons in Boston, we herewith file an Administrative Complaint in opposition to your granting such funds.

The U.D.A.G. sought by the City would represent the largest such grant ever awarded by H.U.D. But as our Administrative Complaint demonstrates, it would also represent a serious retreat by your agency from its publicly stated and legally mandated policies of standing firmly against displacement and advocating strongly for equal opportunity. The grant application was rushed through the City Council without adequate time for study — study which would undoubtedly have revealed what our Administrative Complaint demonstrates: that there are substantial, unresolved questions about the environmental impact of such a project; that the U.D.A.G. funds won't benefit low-income or minority persons, but in fact will cause them harm; and that U.D.A.G. funds are probably not even required in order to construct this project.

Even apart from a consideration of the City's U.D.A.G. application is the central question of whether the City of Boston is eligible to receive such funds. We submit that it is not.

This Administrative Complaint arises out of genuine community sentiment that Copley Place will generate effects that are severely damaging to those who most rely upon your agency for shelter and for justice: minorities and the poor. We know that you will appreciate the gravity of their concerns and will wish to carefully review the City's U.D.A.G. application in light of this Administrative Complaint.

ONH

Copley Place

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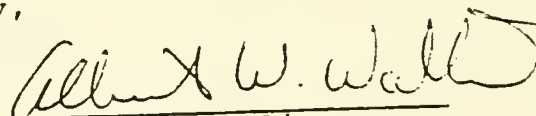
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We are available to meet with you to discuss the issues and concerns raised by this Administrative Complaint. Such a meeting, we believe, would be essential to your ability to understand the depth of concern about the projected development. Please contact either Mr. Wallis or Mr. Smizik to arrange such a meeting.

Under any set of circumstances, we would expect that you would immediately require the City of Boston to provide you and us with a written response to the community concerns raised in this Administrative Complaint. We further expect that your agency, hopefully after meeting with us, would provide us with a written decision which specifically addresses each of these concerns.

We thank you for your attention to this matter and look forward to hearing from you shortly,

Sincerely,



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Sheldon Freedman
Hon. Sen. Edward M. Kennedy
Hon. Sen. Paul Tsongas
Hon. Congressman Joseph Moakley
Hon. Mayor Kevin H. White

TO THE U. S. DEPT. OF HOUSING &
URBAN DEVELOPMENT

ADMINISTRATIVE COMPLAINT

IN

OPPOSITION TO GRANTING

U.D.A.G. FUNDS TO THE

CITY OF BOSTON FOR

"COPLEY PLACE"

Filed June 5, 1980

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I. INTRODUCTION

We look to you.

The problems of finding and holding on to decent housing, of raising a family in a stable neighborhood, of obtaining meaningful employment are the problems of being a person of poverty or of color in urban America. The nation established the Department of Housing and Urban Development as a vehicle for placing governmental wisdom and clout to work on addressing these problems.

Federal urban programs have been designed to attack the causes of poor housing, lack of jobs, and absence of equal opportunity. But new federal urban revitalization programs and policies can, if not employed carefully and monitored closely by HUD, create new — and worse — problems for low and moderate income persons and minorities.

The City of Boston has submitted an Urban Development Action Grant proposal to your department for the construction of "Copley Place" which presents a leading example of the potential for federal funds designed to aid low and moderate income persons and minorities in fact being used in a way that harms them. To be sure, as this Administrative Complaint will demonstrate, the City of Boston is not eligible to receive UDAG funds and, in any event, such funds aren't necessary to build Copley Place. Beyond these very real disqualifications, however, there are some equally real issues of law and policy which present a test of HUD's true commitment to using its funds — UDAG funds in particular — towards solving

the special problems of low and moderate income persons and minorities. HUD's UDAG funds would be used to finance displacement of low and moderate income persons and minorities, to construct a project of uncertain or even dangerous environmental impact, and in a manner that would not produce equal employment or housing opportunities.

Thus, on behalf of several groups representing the low and moderate income of Boston and the City's minorities, we look to you to protect against the harm that Copley Place will cause. It is truly a major test of HUD's commitment to minimizing displacement, providing equal opportunity, and addressing the needs of the poor and people of color.

II. BOSTON IS NOT AN ELIGIBLE APPLICANT FOR UDAG FUNDS.

"Urban development action grants shall be made only to cities . . . that have, in the determination of the Secretary, demonstrated results in providing housing for persons of low- and moderate income and in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups." 42 USC §5318(b)(1) (emphasis added.)

HUD has not made an appropriate determination of the City of Boston's eligibility to apply for Action Grants. The most recent evaluation of the City's eligibility in relation to the standards established for equal opportunity performance was conducted by the HUD Boston Area Office in 1977. That determination was contest in a suit brought by the Boston Branch NAACP and others, NAACP v. Landrieu,* which is presently in the Federal District Court. We concur with the NAACP's assertion that the City of Boston was ineligible to apply for Action Grants in 1977, but, even if the 1977 determination were valid at the time, it cannot be appropriately applied to the present situation. As of March 31, 1980, the Boston Area Office Fair Housing and Equal Opportunity Division, in its Annual In-House Review of Grantee Performance under the City of Boston's Community Developmental Block Grant Program documented numerous failures to comply with the special conditions for Fair Housing and Equal Opportunity attached to the FY 80 Block Grant. (See attached Exhibit 1). The special conditions required by HUD were designed to provide corrective measures for serious deficiencies in the City's equal opportunity performance. These corrective measures remained to be achieved at the time the Copley application was submitted to HUD on April 30, 1980.

*607 F.2d 514 (1st Cir. 1979).

HUD's regulations relating to eligibility of applicants, 24 CFR 570.452(e), state, "In order to qualify, the applicant must demonstrate that it has achieved reasonable results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups."

Among factors to be considered by HUD are:

- (1) The location and occupancy characteristics of federally or other assisted housing units provided for families and the extent to which the use of these programs promotes progress in the geographic dispersal of minority families outside areas of low-income and minority concentration.
- (2) Whether the applicant is actively engaged in promoting housing choice through participating in an area-wide affirmative marketing effort, a New Horizons Fair Housing Assistance Project, or other fair housing activities designed to eliminate and prevent discrimination in the private housing market throughout the applicants jurisdiction.
- (3) Whether relocation as a result of federally assisted programs has resulted in expanded housing opportunities outside areas of minority or low-income concentration.
- (4) Whether the applicant is a participating jurisdiction in an approved Housing Opportunity Plan .
- (5) The applicant's performance reports to HUD and/or the Equal Employment Opportunity Commission with respect to employment indicating affirmative efforts to hire, train, and promote minorities, females and lower-income persons.

Of the above factors to be considered by HUD, the City of Boston at the time of application and to the present, met only the test of factor (3), participation in an approved Housing Opportunity Plan. Such participation, however, could not be

considered to meet the statutory test of "demonstrated results" since the plan has yet to be implemented. With respect to each of the other factors, HUD's own reports show that the City has not only failed to demonstrate positive results in providing equal opportunity but that it has, in some instances, demonstrated regression. Boston's public housing remains segregated. In one project, for example, the Mary Ellen McCormick development in South Boston the one black tenant residing there was driven out as a result of racial harassment in the summer of 1979. Occupancy reports for family housing show that where such housing is available to minorities it is also located in areas of low-income or minority concentration. HUD's In-House G.P.R. *review shows that what little was being done in the name of Fair Housing, as of March 1980, was severely impaired by staff turn-over and other factors rendering that office ineffective in addressing discrimination in the private market.

A study of employment patterns would similarly show a decline in efforts to hire, train and promote minorities on the part of the City. In addition, the City of Boston has failed to meet statutory requirements to provide employment reports to the Equal Employment Opportunity Commission.

Thus, whether the standard of "demonstrated results" mandated by the statute as a criterion for eligibility or the standard of "reasonable results" as defined by HUD regulations is applied to the City of Boston's equal opportunity performance, the City of Boston could not, and does not in 1980, qualify as an applicant for Action Grant funds.

* Grantee Performance Report



III. INDICATIONS ARE THAT UIDC DOES NOT REQUIRE UDAG FUNDS TO
CONSTRUCT COPLEY PLACE.

There is still a serious question about the necessity of a UDAG grant for Copley Place. What has changed since the administration of Governor Dukakis when no governmental financial assistance was considered necessary to build Copley Place? At that time the developers, UIDC, were willing to go ahead without any federal financial assistance. Perhaps the ease with which these grants are obtained and the lack of investigation by HUD to determine their need changed the strategy.

In the application it is stated that UIDC has identified 27.6 million dollars in site preparation costs. It is assumed these same costs were present when the initial application was filed. Thus, the only change would seem to be a change in state government administrations to a new administration that was not concerned with or aware of the previous application. Also, the UDAG program money became increasingly available and removed all the risk from the project.

The fact that UIDC's reliance upon UDAG funds was not originally part of the plan requires a more thorough investigation by HUD. UIDC was designated developer without competitive bidding because no government funding was deemed necessary for the project. They do not demonstrate a need for the funds in the actual application, but merely claim they are required.

In light of the above, unless UIDC can demonstrate an absolute need for UDAG monies, this project should not be funded.

IV. THE BOSTON CITY COUNCIL ACTED UPON THE APPLICATION WITHOUT SUFFICIENT INFORMATION TO EVALUATE THE PROJECT'S IMPACT ON THE CITY AND ITS RESIDENTS.

The City Council saw the UDAG application for the first time on April 30, 1980, the last possible day of the Quarter for the submission of Urban Development Action Grants to HUD. On that same day, the City Council was asked to approve the application. Prior to April 30, 1980, the final application had not been submitted to the Council or to its Committee on Planning and Development or to its Citizens' Review Committee. None-the-less, with the application deadline upon them, the Council approved the application.

Even a hasty review by the Committee on Planning and Development raised serious questions. None-the-less, the application deadline was upon them the day they received the application. The Council suspended its normal processes and voted to approve the application.

In the "Minority Report of Committee on Planning and Development Re: Docket #0138" to the City Council, dated April 30, 1980 (attached hereto as Exhibit 2), Councillor Patrick F. McDonough expressed strong reservations about the Council's taking hasty action on a matter of such crucial importance on the basis of incomplete information. Mr. McDonough wrote:

Though the order (marked Docket #0138) has been before your committee since January of this year, the application which the order would approve has never been submitted to the Council or to this Committee. The application in an incomplete form was, however, distributed to the membership of the committee within the past week and hearings were held by the Committee on the order without the complete application and

without a stenographer on April 28 and 29, 1980. Now on April 30, 1980, the Council is being asked to approve the application which will be before the Council for the first time today and will therefore, require that the Council rule requiring that such matters be referred to committee, be suspended.

. . . The most important questions today are two-fold: How much tax revenue will the city get from this project? Does the project require \$20 million of public money to get off the ground? These questions haven't even been raised, much less studied, by the council.

Those decisions, under federal law, are to be made not by the Mayor and the BRA, but by this Council. And the Council simply has not had the time to get the kind of information it needs to decide these questions.
(Emphasis added)

There are also the serious issues of the amount of housing within the project area, the amount of the developer equity in the project and the amount of interest to be paid by the developer which should be discussed and decided before approving the application.

Neither Councillor McDonough's Report, nor the Majority Report of the Committee on Planning and Development (attached hereto as Exhibit 3) which recommended "that the order be reported out of Committee with NO RECOMMENDATION" were heeded by the City Council. Despite their misgivings and their admitted lack of knowledge, the Council unanimously approved submitting the UDAG application to HUD in time to meet the April 30 filing deadline.

- V. THE SECRETARY SHOULD NOT APPROVE THE COPLEY UDAG BECAUSE IT WILL HAVE A NEGATIVE EFFECT ON THE SPECIAL PROBLEMS OF LOW AND MODERATE INCOME PEOPLE AND MINORITIES.

Housing and employment are identified by the City of Boston in its UDAG application as the two major problems affecting low and moderate income and minority people in the Copley impact area. Copley Place will not remedy these problems, however. Instead, it will create displacement and will not provide jobs for low and moderate income persons or minorities.

A. HOUSING AND DISPLACEMENT

1. Displacement Defined

Displacement can be defined as involuntary movement of people from their dwelling units because of circumstances beyond their control. There is displacement from a dwelling and displacement from a neighborhood. HUD's interim Displacement Report, Feb. 1979 defines the phenomenon as follows:

"Displacement occurs when any household is forced to move from its residence by conditions which affect the dwelling or its immediate surroundings, and which:

- (1) are beyond the households's reasonable ability to control or prevent:
- (2) occur despite the household's having met all previously imposed conditions of occupancy; and
- (3) make continued occupancy by that household impossible, hazardous, or unaffordable."

HUD Displacement Report, Feb., 1979, p. 5

The words of the definition mean little without a description of the real life traumas faced by displacees:

-- The 70-year-old woman living alone in the same rooming house -- the only place she could afford to live -- for 18 years, now being uprooted by condominium conversions;

-- The decorated veteran forced out of his home of 20 years and into the streets because of large rent increases;

-- The Black, Hispanic, Asian and Italian neighborhoods torn apart by real estate speculation and gentrification.

"Displacement can be a traumatic experience for any family, but it is especially difficult for lower income families whose housing choices are constrained by their incomes and by an inadequate supply of decent housing in a tight housing market. If the family must move far away to find decent, affordable housing, loss of neighborhood ties and familiar surroundings can create a sense of disorientation which may have long-term effect."

HUD Displacement Report, Nov., 1979, p. 2

2. The Cities' and HUD's legal duties concerning displacement

According to Section 92 U.S.C. §5318, UDAG's must be consistent with the primary objective of the housing and Community Development Act of 1974:

The primary objective of this chapter is the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities principally for persons of low and moderate income. 42 USC §5301 (c). (Emphasis added)

The Congress in 1978 declared its intent to deal with the issue of involuntary displacement:

"(I)n the administration of federal housing and community programs, consistent with other program goals and objectives, involuntary displacement of persons from their homes and neighborhoods should be minimized. Public Law 95-557. Oct. 31 1978. §902, 42 USC 5313.

HUD then commissioned a displacement report. In their interim report, HUD recognized that while urban revitalization and ambitious development programs have some positive benefits, "(t)hey often caused displacement of the low income and minority residents of these areas with only a few rehoused in newer replacement housing built for that purpose."

HUD Displacement Report, Feb., 1979, p. 2)

Programs funded with housing or community development funds must address the problem and minimize it.

"HUD has a responsibility both to minimize the amount of displacement occurring as a result of the programs and activities and to ensure that appropriate relocation assistance is provided. When an entity receiving HUD assistance is responsible, HUD must impose a similar responsibility on the recipient of that assistance."

HUD Displacement Report, Nov., 1979, p. 5.

Before determining the eligibility of a community, the Secretary is required to take certain factors into consideration.* These include not only the physical characteristics of a city but also a community's results in providing housing and results in providing equal opportunity. As discussed earlier, the City is ineligible due to its poor performance in providing equal opportunity.

After the review of city eligibility, the project itself must be determined to be eligible. A balance must be achieved among projects designed to restore neighborhoods and to renew commercial employment centers. (24 CFR §570.457.) Also, HUD must look at the performance in carrying out housing and community development programs. (24 CFR §570.475 (c).) Of

*24 CFR 570.452

a) Age of housing b) Per capita income c) Population lag/decline
d) Unemployment e) Job lag/decline f) Poverty

particular importance to a selection of a project is the impact of the proposed project upon low-moderate income persons and minorities (24 CFR §570.475(d)). (Emphasis added) The project should not detract from, but rather add to their "opportunity to reside in the area" (24 CFR §570.457 (d) (3)).

Additionally, the physical impact on the characteristics of a neighborhood must be considered. These include the impacts on the housing stock, facilities, and services to support the project's economic feasibility. A greater weight must be given to projects which will cause minimal displacement and disruption of occupants and jobs. (24 CFR §570.457 (h))

Congress and HUD have made pronouncements — some of them of policy and some of law — regarding the problem of displacement. The question now is whether HUD officials have the will and commitment to defend their principles.

3. Displacement is Induced by the Private Market and by Federal and City Policies.

a. Displacement Throughout Boston Generally

Indirect displacement associated with Copley Place was examined in the study commissioned by the United Lower Roxbury — South End Community Development Corporation. The study reports that:

"The issues surrounding displacement are complex. Urban Revitalization offers numerous benefits to cities which have been facing the overall trends of urban decline. Policy members at the local, state, and national levels are seeking ways to expand this pace of reinvestment, viewing it as critical to the future health of the older cities. At the same time, there is a slowly growing recognition of the negative effects of this revitaliza-

tion process, effects which are felt by those with the least resources for coping with them, e.g., the poor, the elderly, those with special housing needs . . . in our minds, however, there has been little evidence to date to suggest that low and moderate income residents are indeed enjoying any benefits from such neighborhood revitalization."*

Even though City Officials consistently feign ignorance and dispute the concept, displacement is a significant factor in the changing face of Boston neighborhoods. While the causes of displacement are in dispute, families and the elderly are losing their homes and apartments in the North End, the South End, Fenway, Chinatown, Back Bay and Jamaica Plain. The circumstances are dire for low-income persons seeking rental housing in Boston.

Boston's CDBG funds have been primarily used to aid homeowners, most of whom reside in middle income areas. Contrary to Boston's assertions that the administration is the leader in providing housing for the poor, the City's housing programs have resulted in an overall decrease in housing available for low income families. HUD has already recognized the magnitude of the displacement problem in Boston. HUD's year V CDBG grant to Boston was conditioned upon the city providing HUD with a displacement strategy for year VI.

Copley Place will put added coals on the already existing fire of displacement. From reading page 41 and 42 of the UDAG application it is evident that the city is unconcerned with the poor. Its policy is to encourage luxury housing in the area which will increase property values and further the

*Stockard and Engler Report, p. 3

escalation of rents. The city's "Frankie O'Day" block is for moderate income ownership; the mixed housing is primarily for the middle income person. Boston is aware that Section 8 units are not available, yet they maintain that these non-existent section 8 units would be available to offset the effects of Copley Place. Most of the units the City proposes have been on the drawing boards without action for years. Rather than indicating a willingness and ability to address the effects of Copley Place, these "drawing board plans" underscore the City's lack of commitment to low-income housing.

The situation in which public housing tenants find themselves is a further example of the lack of housing opportunities for low-income people. There are thousands of vacant units which could be rehabilitated for use. Yet, in the year VI CDBG application, the mayor proposes cutting off the 10% of CDBG funds traditionally set aside for public housing needs.

Whatever "good intentions" the city espouses to deal with the lack of housing and displacement problem, it is evident that their actions reflect a callous disregard for the most needy in the city.

b. Displacement in The Impact Area Specifically

City and HUD officials often argue that the cause of displacement indicated above is merely the private market changing the character of the neighborhoods. The implication of this view is that the government has no business getting involved in these situations. The truth is that city policies and HUD programs have had a great deal to do with

the supposed purely private market activity and that both the city and HUD have a clear responsibility to address the problems which have been created as a result.

According to the Economics Research Associates' (ERA) study commissioned by the Boston Redevelopment Authority, Housing Impact Analysis, 135 million dollars of public money has been spent in the South End since 1965. During the same time, 42 million dollars has gone to the Fenway and 40 million has gone into Bay Village and the South Cove. While this money has been spent on a number of activities which may have improved the quality of life for some people recently moving into these neighborhoods, it has also clearly had severe adverse effects on many of the original residents

From 1960-1970 the number of units in the impact area declined from 34,138 to 24,568, largely reflecting demolition activities associated with urban renewal programs in the South End and Fenway, plus the conversion of rooming houses to rental apartments.* Concurrent with the change in the housing stock, the demographic composition of area residents has changed significantly. As an example, the percentage of black residents in the Fenway has increased while the percentage in the South End has declined from 39-28%.** The impact area has witnessed a general increase in the population aged 25-34. The value of real estate has also risen dramatically in the impact area since 1960.*** There can be little doubt that the public expenditures in the impact area since 1965 have caused this abhorrent situation.****

* Housing Impact Analysis p. 7-8
** " " " p. 10
*** " " " p. 10
**** " " " p. 10

The City, using tax advantages and other financial incentives, has brought the major developments outlined on pages 41-42 of the UDAG application into the Back Bay, Fenway and South End areas. Public money has been used for the public improvements necessary for these developments to be built. HUD money, from Urban renewal and other related programs, helped to make the surrounding neighborhoods desirable to the new work force employed in these developments. For example, in the South End, 312 loans were given to upper income people as a further incentive for them to move to the area. Public improvements were made in the neighborhoods where demand existed for housing for newly arriving upper income people.

All of these efforts, among others, encouraged and promoted private investment in the Back Bay, Fenway and South End. This private investment has forced countless numbers of low and moderate income residents of these neighborhoods to leave their homes. Lodging houses have been converted into apartments and apartments have been converted into condominiums. The low income people who once lived in them have not benefitted from the improvements in their old neighborhoods. The remaining low income people who are forced out of their homes because of Copley Place similarly will not benefit from the project.

It would be innacurate to claim that the private market interest in the Back Bay, Fenway and South End just happened by itself as a result of the maturation of the baby boom generation and the energy crisis. City policy and money have clearly promoted and focused the interest which independently

existed in the private sector. We are not arguing that revitalization of these neighborhoods has been completely harmful. We are saying, however, that most of the original low and moderate income residents of these areas not only have not benefitted from these programs, but have been seriously harmed by them. The City and HUD must take responsibility for this and not continue blindly with programs that only worsen the problems.

c. South End: An Example

It is fast becoming impossible for low or moderate income persons to pay for rent as evidenced by the situation in the South End.

HUD's policy has traditionally been that no household should be required to pay more than 25% of their income for shelter. In the South End presently, persons in the \$15,000 and above income range can afford to rent a two bedroom unit even at the lowest South End rents. Only persons above the \$30,000 income range can afford luxury two bedroom units. However, many of the persons moving into the South End rental units are single or living with another working individual. Often, these renters can afford and do pay more than 25% of their income towards rent. Families, however, do not always have this option, being burdened by expenses for food, medicine, and additional necessities for their children.

These effects on the housing market in the South End are occurring in other neighborhoods in the city. To this extent it is a microcosm of Boston neighborhoods.

The South End, a large component of the impact area, has suffered large amounts of involuntary displacement. The

pattern can be identified by four changes in the housing stock:* (1) Demolition; (2) rehabilitation; (3) conversion; and (4) inflation of housing prices. The last three factors are due primarily to private market activities related to reinvestment and an infusion of federal monies in the area. Before renewal, there were about 22,000 housing units in the South End, the large majority of which constituted housing units for low-income persons.** The South End has lost at least 7,000 units since 1960 when renewals started.*** The lack of units thus made it difficult for residents to find new units in the area and tightened the existing rental market. The rehabilitation undertaken encouraged landlords to rent to higher income tenants. Not enough rehabilitated units became available for low-income persons. The wealthier newcomers to the South End were encouraged by the Redevelopment Authority that granted low interest mortgage loans.****

The following chart indicates the decrease in lodging houses during the most active renewal period. These units were occupied by low-income elderly and single persons who had little alternative housing choice:

Table 4.3 Percentage of South End Lodging Houses
by Census Tract (1960-1978)

Tract:	<u>703</u>	<u>704</u>	<u>705</u>	<u>706</u>	<u>707</u>	<u>708</u>	<u>709</u>	<u>710</u>	<u>711</u>	<u>712</u>
1960	72%	46%	69%	77%	68%	40%	55%	61%	30%	68%
1978	24%	8%	16%	15%	5%	22%	65%	41%	0%	6%

Data based on 1960 Census and 1978 Consensus Survey

* Masters Thesis, by Elizabeth Seiffel, p. 58.

** Masters Thesis, p. 37.

*** Masters Thesis, p. 38.

**** Masters Thesis, p. 52.

4. Copley Place Is Causing Displacement

Copley Place is causing displacement largely through the increased "gentrification" of surrounding neighborhoods. Already the effects can be seen by simply reading the real estate section of Boston newspapers. Ads appear reading: "So. End, nr. site of Copley Sq. development, mid \$70's. 1 bdrm. Condo . . ." Boston Sunday Globe, May 11, 1980, p. E5. A block in the Fenway - Gainsboro Street - provides another graphic example. Two landlords own most of the property. For years the units have been rented to low and moderate income people. Now, in the face of Copley Place, 150 units on one side of the street are being converted to condominiums while tenants on the other side of the street have been notified of a 50% increase in their rent.

HUD's own studies show that revitalization creates changes in the community composition.

"These studies indicate that in-movers tend to be young, white professionals who are single or have small families and that out-movers generally are elderly households, minority households, and renters . . . These 'out-movers' generally have fewer resources to compete in a costly and increasingly competitive housing market." (HUD Displacement Report, Nov., 1979, p. 2).

While we have used many of the facts from the Housing Impact Analysis to show displacement in the impact area, we disagree with many of their conclusions. The report's conclusions were based on a number of faulty assumptions and a refusal to consider several important factors. Our analysis demonstrates that the displacement effect of Copley will be much greater than E.R.A. claims.

The first of the faulty assumptions in the Housing Impact Analysis is that the Copley Place "impact area" is limited to within 15 minutes walking distance from Copley. There is no rationale given for this assertion. In fact, the study quickly points out that most of the housing impact of Copley will occur outside of the impact area. Thus, it is unclear why they then restricted their study to this limited area.

E.R.A.'s definition of the impact area has a significant effect on how they calculate Copley's impact. For example, E.R.A. claims that rents and property values in the impact area are already equal to, or greater than, those found in the suburbs. Not only is this not true for the impact area as E.R.A. defines it (much of the Fenway and parts of the South End, such as Census Tract 709, still have low rents and property values), but it is certainly not true for the areas extending from Copley along the bus and subway routes (Lower Roxbury, Roxbury, and Jamaica Plain) where E.R.A. correctly assumes many of Copley's employees will reside. These areas are still affordable to low and moderate income persons.

The narrow definition of the impact area by the E.R.A. eliminates from consideration the communities surrounding Copley where Copley Place has generated a great deal of real estate speculation. This clearly leads to an underestimation of Copley's displacement effect. Since the E.R.A. study assumes that most of Copley's workers won't be able to afford to live in the impact area, the study should also calculate the effects on housing "elsewhere."

A second faulty assumption in the E.R.A. study concerns the estimation of how many Copley employees will want to live near the development. A comparison with the adjacent Prudential Center is warranted. The Prudential Center, built in the sixties, was a major development on the scale of Copley Place both in terms of size and employment generation. While the E.R.A. estimates that only 19% of the Copley Place work force will live within walking distance of the proposed development, they go on to point out that 49% of the work force at the Prudential Plaza live within walking distance and 29% of the Prudential Tower employees live within walking distance. This suggests that many more than 19% of the Copley employees will want to live in the area and will, in their search for shelter, add significantly to the direct demand for housing. The percentage could be substantially higher if the City is serious about encouraging preferential hiring of Boston residents. This additional pressure was not accounted for in E.R.A.'s calculation of direct demand and, consequently, they underestimated that demand.

E.R.A. also appears to assume inaccurately that the demand for housing would be felt only gradually over a five-year period. In fact, the construction schedule outlined in the E.R.A. report shows that all major facilities within the project will open up in the course of a 14 month period. This suggests that the initial hiring of workers would occur during this time and the subsequent demand for housing would be greater than E.R.A. indicates for this 14 month period.

Further, the study fails to consider a number of significant factors which will be responsible for increasing the

Copley Place Project's impact on area housing beyond what E.R.A. has already calculated. For example, E.R.A. failed to consider the rate of turnover in housing among existing households in their calculation of housing demands by workers at Copley Place, while they do consider the turnover among Copley employees and housing moves. On page 68 of the Housing Impact Analysis, the turnover rate of the housing stock was identified as 25 to 35%. Using this figure, the Tent City Corporation in their comments on the study, recalculated the impact of Copley employees on area housing. They concluded that the average annual demand for housing due to proposed development would actually be 400 to 510 units rather than 200 to 210. This recalculation, based on only one of the many factors which we have identified as significant, alone, raises the total housing demand from 1000 to 1050 units to 2000-2550 units over a five year period. The Tent City comments go on to point out that the percentage change in demand would rise to 32%-33% rather than 11-15% when the provision is made for turnover in housing of workers at Copley.

The Housing Impact Analysis also failed to consider the possibility that housing units in the Copley Place area might be lost as a result of conversion to business or commercial use. This was a documented effect of the Prudential Center. Any loss of housing units, given how tight the Copley area market already is, should have been considered in the impact analysis. Failure to consider this factor resulted in a further underestimation of Copley's housing impact.

Finally, the Housing Impact Analysis identifies census tracts 707 and 708 as potentially being affected by Copley even more than the rest of the area. But then the study fails to examine what will actually happen to this area. This is a significant oversight, not only because it contributes to the underestimation of Copley's housing impact but also because 707 and 708 currently contain a racially and economically mixed population. There are grave implications in destroying such an area which are discussed later in this Complaint.

The inadequacy of the Housing Impact Analysis' assessment of Copley's potential effect can also be seen by examining some of the effects the project has already had. One prominent example is the latest delay in the development of Tent City, due, in part, to the increased purchase price of the land on the site.

In a Citizen's Review Committee (CRC) meeting concerning the design plans for Copley Place held in December 1978, a BRA official announced that the City was prepared to acquire the private land in the Tent City parcel for an assessed value of \$630,000.00. Appraisals on this land had been made by the City since it had been designated for redevelopment into housing in the 1965 Urban Renewal Plan.

In a later CRC meeting, the City retracted the announcement that they would buy the land. Representatives of the City have since stated that the appraised value for Tent City has dramatically increased as a result of the Copley Place Project. A price of \$1,000,000.00 has been suggested for the land, although no official appraisal has been con-

ducted since 1978. City representatives have further questioned the availability of public funds to pay for acquisition at this price. Accordingly the City has avoided acquiring the property and has pushed to have the present owners included in the site's development. As a result, the Tent City site is still primarily a parking lot and many of 200 low and middle income households displaced twelve years ago by urban renewal have not been resettled in their old neighborhood.

It would be difficult to comprehend HUD's approving a UDAG for Copley Place considering the magnitude of the housing shortage and the displacement problem already existing in Boston. HUD has officially recognized the displacement problem by conditioning the Year V (1979-1980) CDEG funds upon the developing of a displacement strategy for Year VI (1980-81). To use public monies in support of a project such as Copley Place which will exacerbate a problem already recognized would have HUD officials sticking their collective head in the sand, ignoring both the effects of their actions and the federal law.

5. Displacement's Effects on Individuals

Copley Place is a test of HUD's commitment. Copley Place won't directly tear anything up or knock anything down. It would be easy at first glance to hide the displacement effects because they will be indirect. "Secondary displacement can be associated geographically with . . . the . . . UDAG programs . . .," HUD Displacement Report, Feb., 1979, p. 6. However, the effects are real, as the experience of Greater Boston Elderly Legal Services is already bearing out.

Greater Boston Elderly Legal Services serves clients

in the areas of Boston directly affected by Copley Place. These older Americans living on fixed incomes have been facing a severe displacement problem. Copley Place is making this worse. For some time, speculators have been cruising the neighborhoods looking for properties to buy and convert into expensive condominiums. Rents which had been fairly stable have begun to skyrocket. Rooming houses which had been home to a large elderly population in the South End, have become prime targets for conversion to luxury condominiums, selling for amounts in six figures.

The following are examples of the effect of this phenomenon on a few older people who worked hard all their lives and are now trying to live on their Social Security pension. Displacement is not numbers, it is people's lives.

(a) Jane Doe is 70 years old. Until her retirement, she worked as a maid at a local hotel. Her total income consists of her monthly Social Security check of \$325. She has no savings. She has lived in the same South End rooming house for the last 18 years, paying \$140 for her room there.

In the wave of Copley Place fever, her building was bought by a corporation, which immediately began eviction proceedings for purposes of condominium conversion. Up to that time, Miss Doe had lived a quiet, orderly life, somehow managing to get by on her meager income, bolstered by the familiarity of her surroundings and her roots in the community.

The eviction notice and the events that followed made a shambles of her life. The newcomers, in their haste to

vacate the building so as to proceed with remodeling, harassed her continuously. They threatened momentary demolition; they repeatedly failed to provide heat, and the frail woman was forced to spend daylight hours shivering in her bed. Although the Housing Court issued orders to the new landlord to provide heat, to repair gross code violation, and desist from harassing her, new tortures were invented monthly. The woman began to live in constant dread, her arthritis worsened, she contracted chronic bronchitis.

Whenever she was strong enough, she haunted the offices of the Boston Housing Authority, trying to get into the Elderly Housing Project not too far from her old neighborhood. The waiting lists for these projects are enormously long. When Miss Doe's attorney checked with BHA to see where her client stood on the list, the official told her that the list of the highest priority emergencies was very long. He added: "You know, the only way the tenants leave this place is feet first. Your client will just have to wait until enough tenants die to get her turn."

A social worker from the South End Settlements has spent eight months trying to find housing for Ms. Doe, while her attorney has been fighting to keep her in her building. In that period of time, a cheerful, optimistic, bright-eyes bird of a woman has turned into a frightened, sick, often despairing person, given to frequent crying jags, often expressing the wish that she "could die and get it over with."

Jane Doe is about to move into the Stearns Building, where she has "a room in the back, looking out at a wall." She told her attorney that it is a grim and depressing room

and that she dreads moving there. The only thing she dreads even more is staying in her present building, suffering the continuing and ever new harassment techniques invented by the landlord, eager to begin conversion construction.

(b) Another elderly tenant in the same building, Mary Roe, who lives on her Social Security disability check of \$320.00, moved out two months after she received notice to quit in spite of her attorney's assurances that she did not have to move for many months. Her disability was connected with a nervous condition, and she found that she was getting far more disturbed after the eviction attempts began. She had just been displaced four months earlier from a neighboring building also purchased by someone from outside the area for purposes of condominium conversion. Her attorney ran into her recently on the street. Mary asked for the attorney's card because she thought she was about to be evicted again and had run out of ideas about where to go.

(c) Henry Jones is a decorated veteran of World War II. He is 67 years old. For the last four years, he has lived in a vacancy-decontrolled room in a rooming house. His rent was increased by \$100 a month. He couldn't pay and was evicted. For weeks, he has been sleeping in the lobbies of various institutions such as Mass. General Hospital and Morville House, an elderly housing project, and spending his days trying to find a place in Boston where he can afford to pay the rent.

(d) Mary Smith is 63 years old. She has been living in a rooming house in the South End for the last four years. She lives on Social Security disability. She worked

as a maid at the YMCA until she became disabled by a heart condition and severe emphysema.

Miss Smith's building was bought by an outsider for purposes of condominium conversion. In an effort to get the tenants out quickly, one of the new owners first tried to frighten everyone out immediately. When Miss Smith sought legal representation and discovered that she need not panic and could take some time to find a new place, the landlord stopped oil deliveries. When the court ordered him to provide heat, he turned off fuses so that the contents of Miss Smith's refrigerator spoiled. When he was restrained from this harassment, he broke the lock on the front door of the building. He was ordered to repair the lock; his attorneys promised in writing that he would do so. They also promised he would provide lights in the common areas. Months later, an intruder entered the building through the still unsecured door and mugged Miss Smith. She phoned the police and went downstairs to meet them. In the total darkness of the stairs, she tripped and fell down 14 wooden steps to the entrance hallway.

She was taken to the hospital, her entire body covered with angry bruises and her head injured from the mugging. She returned home on crutches. She was moved to the top of the priority list for elderly housing. A social worker and her lawyer worked tirelessly to find shelter for her away from the nightmare that her home had become.

The owner kicked in the door of another apartment directly beneath Miss Smith and allowed garbage to be dumped there. Mary Smith's apartment became overrun with rodents.

Miss Smith's physician wrote letters to the Boston Housing Authority stating that her health was rapidly deteriorating because of her housing situation. Nothing became available for many months.

Mary Smith had been a competent, cheerful, self-sufficient, rational person before the "investors" had bought her building. By the time a Section 8 subsidized apartment was found for her through a lucky fluke, she had become a profoundly unstable, hysterical, depressed person who often spoke of her terror and despair and her wish to die.

We are told that 80% of the elderly poor in need of legal help never find their way to Legal Services. The aforementioned case histories are those of older Americans who started out strong enough and self-confident enough to seek out legal help. What happens to the other 80% in a city with a rental vacancy rate of less than 2%?

6. The City's Policies and Strategies Reflect a Lack of Concern for the Problem.

The picture that evolves is increasingly clear. The City intends to use federal monies to increase the tax base despite the consequent expense to the poor and minorities. Organized groups in the area which have vehemently sought to drive low income and minority persons from the community* will have found a vehicle--Copley Place--and allies at both City Hall and New Chardon Street.

The City's housing policy will do nothing to mitigate the displacement caused by Copley Place. Within Section D of the UDAG application, "Impact on the Special Problems of Low and Moderate Income Persons and Minorities," the City lists almost 4,000 units of proposed housing which they claim "will meet the demand for housing in the study area generated by the Copley Place Project...." 2,500 of these proposed units would be market rate which would be prohibitive for even middle income persons; close to 1,400 would be subsidized. Unfortunately, even this inflated version of the City's housing efforts would be of little help in preventing the displacement of low and moderate income people from the Copley Place impact area.

The inaccuracy of the City's vision stems from the fact that the housing they claim will be created to mitigate the

* See "Subsidized Housing in the South End," prepared by the Boston Redevelopment Authority, September, 1978 (Revised), pp. 14-20, describing the efforts of the so-called Committee for a Balanced South End (formerly, Committee for a Better South End).

effects of Copley (were it to be constructed), was actually proposed in response to the demand which existed before Copley Place was a factor. Copley will produce an additional demand for housing for which new programs should be designed. The proposed housing listed in the UDAG Application's \$D will not meet this new need.

The City's faulty reasoning is particularly apparent in the case of the subsidized housing because the fifteen projects listed are already part of an explicit housing strategy. The projects proposed in the South End were designed to offset the displacement caused by urban renewal. Tent City, for example, was proposed twelve years ago in response to displacement which was occurring then. Viviendas la Victoria was also planned many years ago. Its construction was halted for over a year by a court challenge which was recently defeated; but for that, Viviendas would have been constructed long before Copley Place was conceived of. The subsidized housing in the Fenway is also largely part of an urban renewal strategy and an effort to replace housing lost through arson. Clearly, then, a displacement problem existed long before Copley Place was ever proposed. The housing projects the City lists, if completed, will only partially address that problem. It is absurd to say that these projects will address the new demand resulting from Copley.

There is a further question as to whether many of these proposed projects will ever be completed as low and moderate income housing. Many rely on government subsidies which are not assured at this time. Given the federal budget cutbacks,

it is not at all certain whether there will be any subsidy money available. As a result of the cutbacks, the 115 units labeled "South End Scattered Site" are being proposed for development without any subsidies and this makes it completely impossible for them to be developed as low and moderate income housing.

The landscape is being carefully planted by Mayor White's team of policy makers. Despite claims to the contrary in the UDAG application, Boston's policy on condominium conversions provides no protection. It neither meets the City's overall need for affordable housing nor does it address the basic human needs of those who are displaced directly or indirectly. With about 150,000 non-subsidized apartments and a vacancy rate of 2%, there are no more than 3,000 vacancies in the whole city. Yet 200 apartments were converted to condominiums each month during late 1979 and early 1980, with few apartments purchased by former tenants. At that rate of conversion, there will literally be no place for displaced renters to go in the City within two years. Thus, an ordinance allowing displaced tenants one or two years' notice to find a vanishing number of apartments is far from sufficient protection.

Additionally, many units in the City are actually exempt from the provisions of the condominium legislation by a provision which exempts all private market housing constructed, converted, or substantially rehabbed since January 1, 1968, and all publicly assisted units constructed, converted or rehabilitated after January 1, 1972. Furthermore, although many of the "transient" tenants directly displaced by condos have been students, education is a major industry in Boston and will continue to bring new

students to the City. These students will pool resources on their own (by having several roommates) or through their institutions (through buying or leasing existing rental housing for student housing, as B.U. and Northeastern have already begun doing) to outbid other residents of the City, whether families or elderly, for the few remaining apartments.

The problem is compounded by the "vacancy decontrol" provisions of the City's rent control ordinance. There is no explicit provision in the condominium conversion ordinance prohibiting landlords from raising rents in decontrolled apartments in order to get rid of tenants. A tenant facing a rent increase on a decontrolled apartment can only argue in court that the rent raise is really a "condominium conversion eviction" in disguise; the burden of proof is on the tenant, a risky situation that few affected tenants are likely to take, since losing the case may mean eviction in a matter of days.

As HUD concluded, "(t)enant displacement was found to be the most serious and prevalent problem of conversions. The seriousness of the problem is a function of the availability of housing alternatives, the characteristics of the tenants and the time given to relocate." (HUD displacement Report, Nov., 1979 p. 19.)

The rent control policy is full of loopholes which make it inapplicable in many circumstances. A tenant evicted from a rent-controlled apartment will lose the protection of Rent Control in any new apartment in the City. No tenant in a decontrolled apartment is protected from the rising levels of rents caused by a limited supply of rental housing which exists

in the face of increasing demand brought about by projects like Copley Place. Tenants in decontrolled apartments do not even have the right to an administrative hearing and to the minimal protection from speculators given to tenants in controlled apartments. Thus, subsequent displacement of once displaced long term residents will be even easier, through rent increases or direct eviction. Rents can continue to rise until they meet the "replacement cost" of new housing. It now costs over \$40,000 per unit to build multi-unit residential buildings in the City; few households in the City can afford the monthly payments required to own such a unit or to provide an "adequate rate of return" to a private landlord with such a unit for rent.

Demographics and housing statistics should not be used to hide the serious personal tragedy caused by displacement through condo conversions and the shrinking rental housing market. All are hurt, but especially the elderly and disabled. Low income elderly and disabled (not even all elderly and disabled) get two years' notice for condo eviction, but even this amount of time to look for a non-existent apartment is little comfort. Furthermore, singling out the elderly and disabled for special treatment subjects them to harrassment by unscrupulous landlords, and makes it less likely that a landlord will rent to them once they are finally forced to move.

Closely following the changing character of the impact area will be reassessment by the City. The E.R.A. study recognized the dangers:

"Reassessment is another factor which could impact certain neighborhoods particularly in the South End, resulting in the displacement of low, moderate, and middle income renters and low to moderate income owner occupants." (Housing Impact Analysis, p. 49.)

The current rate of property tax assessment within each neighborhood in the impact area varies greatly. The South End and Fenway appear to be the most underassessed neighborhoods relative to the Back Bay. "Reassessment could potentially displace both low and middle income renters without the funds." (Housing Impact Analysis, p. 49.)

HUD's displacement study indicates that strong factors in creating displacement are high demand for housing in an area, condo conversion, high rents causing displacement or relocation. HUD pp. 113, pp. 2-3.

In direct contradiction to Federal regulation, Copley Place and its UDAG will not provide an opportunity for low and moderate income persons and minorities to reside in the project area after its completion. (24 CFR §570.457(d)(d).) In fact, as noted above, with regard to the persons HUD is pledged to protect, the only opportunity it will create is the opportunity to be displaced. This, too, is inconsistent with HUD's policy of minimizing displacement by giving preference to projects which do not cause displacement...It is clear that Copley Place is such a project.

The Stockard-Engler report recommends that one approach is critical; the preservation of the low-moderate income housing stock.

"Given past and projected trends in the Copley Place impact area, the only viable strategy to prevent displacement of low and moderate income households brought about by Copley Place is to preserve some portion of the existing housing stock in the impact area for low and moderate

income households." p. 6.

Such a strategy is not an element of the Copley Place UDAG. In fact, the strategy appears to be to prevent low income people from living in the private housing in the impact area.

It is impossible to reconcile the Copley Place Project as consistent with the concerns of the Congress as expressed in the UDAG statute and the regulations promulgated by HUD.

The initial question is where do the people go? To ignore their housing needs without giving them an opportunity to remain in their neighborhood is contrary to the purposes of the Act and Regulations. In effect, it reverses the goals of HUD and BRA's previously funded efforts in the South End which supposedly "favored an approach that would not turn over the area to higher income residents, but that would allow the existing citizenry to have a significant voice in planning and developing the South End," and which was "firmly committed to completing the South End Urban Renewal Plan in a way that improves the quality of life for all residents of the neighborhood, not just the select few, and in a way that preserves, maintains, and strengthens the diversity of the South End community." (Subsidized housing in the South End, BRA, Sept., 1978 (revised) pp. 7, 20.) What kind of federal housing policy would allow the spending of millions of dollars of citizen's money to support the "firm commitment" of 1978, only to allow the expenditure of millions more in 1980 to wholly undermine that commitment? What kind of agency would publicly promote a policy of neighborhoods that are integrated both racially and

economically, providing a broad choice of housing opportunity, where low and moderate income residents can enjoy the benefits of the revitalization process [HUD Displacement Report, Feb., 1979 (pp. 3, 10, 22)], while promoting through its funding a venture which will achieve the opposite results?

In the selection process HUD must consider the impact on special problems of low and moderate income persons and minorities. 24 CFR 570.457(d). It is difficult to fathom an argument that Copley Place UDAG would be used to alleviate or would have a favorable impact upon the special problems of low or moderate income persons or minorities. Unless such an argument can be convincingly made and supported, the UDAG should not be approved.

B. THE JOBS POLICY IS INADEQUATE AND DOES NOT BENEFIT
LOW AND MODERATE INCOME PEOPLE AND MINORITIES

"Good faith" efforts cannot work where good faith does not exist. Clear standards, not vague goals are therefore required. Such standards exist in the Copley Place Application's jobs policy.

The City has promoted a vision of itself as a champion for a "Boston Resident Job Policy". In actuality, the developers are not legally obligated to require the hiring in construction jobs of 50% Boston residents; nor are there obligations to hire 25% minorities, 10% women. The developers are only obligated to pursue the goal of trying to hire those percentages. There are also many qualifiers to obtaining these goals. Words used in the contract including "good faith efforts", "reasonably possible", and "qualified" are deliberately vague and without substance. If the City is serious about this commitment, why do they write in "legal loopholes"?

This nebulous, non-binding language is not new or innovative. It has not worked in the past with Model cities or Boston Plans 1, 2, or 3. Further, the construction unions are presently in court around the country challenging requirements to place minority workers on jobs. With the White administration's past performance and the construction unions' antipathy toward minority quotas, the enforcement of these platitudes is dubious.*

*We note that it would be the Mayor who would have to enforce this residents' jobs policy. The Mayor himself is presently under fire for having violated the policy by knowingly hiring onto the City payroll his sister-in-law from Wellesley.

The monitoring procedure further indicates that there is really no intent for enforcement. Initially, there is only one possible representative with actual ties to neighborhood residents -- Third World Jobs Clearinghouse. One of the designated members of the monitoring committee does not even exist, i.e., the Southwest Corridor Land Development Coalition. It is also interesting to note that the community organization which conceptualized the Boston Resident Job Policy* has not even been designated as a Liaison Committee member. Twelve of the fourteen members of the Liaison Committee are city or state agencies or represent the developers, contractors, and Building Trade Unions. In fact, three of the members of the Liaison Committee are now fighting the Resident Job Policy in the federal courts. It's difficult to have the confidence in the "good faith effort" of the parties -- considering the members of the Monitoring Committee.

There are other problems. There is no requirement that information relating to contract compliance will be available to the public; nor is there a requirement that advance public notices be given of the Liaison Committee meetings.

There is no plan which would establish how the developer and its general contractor will recruit minority subcontractors to prepare and submit bids on work.

Finally, E.E.P.A. is the only agency delegated to make job referrals of Boston residents, although the Building Trade Unions could refer Bostonians if they have some among their members. Not one community-based organization has been designated to identify, recruit, and refer Boston residents

*The Boston Jobs Coalition

for jobs at Copley Place.

To delude the community that this UDAG will provide construction jobs to local residents is another hoax associated with this project.

The same rationale could be used to rebut the City's claims about permanent jobs. There are not enforceable mechanisms existing which would require the employers in the hotels, department stores, or parking garage to comply with the "good faith" language. As mentioned earlier, the types of service jobs that will be created may not ever be available to Boston residents since the nearby area will be too expensive with too few available units in their income range. Again, the lack of planning makes this project fatally deficient.

In conclusion, it would be contrary to the intent of the federal policy to approve this project. While the tax benefits may enhance the City's coffers,* the project intensifies a critical displacement problem in the impact area. Its minimal housing and unspecific neighborhood development components cannot heal the ravages caused by other federal monies put into the impact area in the last decade. The jobs created, while needed, are both overestimated and not at all assured for low-income and minority people. For these reasons, the Copley UDAG should not be approved.

* We note that UIDC is expecting to obtain a tax break from the City of Boston under M.G.L. c. 121A.

VI. COPLEY PLACE WILL NOT FURTHER EQUAL OPPORTUNITY

- A. APPROVAL OF THE COPLEY PLACE URBAN DEVELOPMENT ACTION GRANT PROPOSAL WOULD CONTRADICT HUD'S MANDATE TO AFFIRMATIVELY FURTHER NATIONAL FAIR HOUSING GOALS

Section 808(e) (5) of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608, states: "The Secretary of Housing and Urban Development shall administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this title". Action Grants administered by the Department fall within the scope of this statutory mandate. In the case of this proposal for Copley Place, no activity proposed or development planned has been designed to contribute to fair housing within the City of Boston. There has been no attempt in the design of the project to coordinate commercial development with other programs and activities in such a way as to have a positive effect toward equal housing opportunities. The proposal fails to provide any element which might reasonably be considered to affirmatively further fair housing. At the same time, the potential impact of the project is not neutral with respect to minority housing opportunities.

The Court has made clear, in Shannon v. U.S. Dept. H.U.D., 436 F.2d 809 (3rd Cir., 1968), that HUD has a duty to make an informed decision with regard to the effects of proposed HUD-funded projects on minority housing opportunities. In Shannon, the Court suggested a variety of institutionalized methods for

assembling and evaluating information and weighing alternatives. It was specific in not restricting HUD to a review of factors operating only in the geographic area of the project under consideration. In the case of the proposed Copley project, although information is available in the proposal, in the Environmental Impact Statement, and from other sources, no attempt has been made to address the issue of the project's impact on minority housing opportunities. No institutionalized process has been established which would permit HUD to make the informed and balanced judgment required by Shannon. What limited information is available strongly suggests that the project will have a significant adverse effect on minority access and housing tenure. HUD has a duty to disapprove the Copley proposal in light of the following facts.

1. The Historic Pattern

The historic pattern of residential location shows in that the displacement caused by the urban renewal program in the South End affected the black population more than the population of the South End as a whole. Urban renewal was largely responsible for the dramatic halving of the South End's population between 1960 and 1970. During this time, there were significant decreases in both the white and non-white populations residing in the Copley impact area. Between 1970 and 1978 the white population increased slightly, while the non-white population continued to decline.

	<u>#Whites</u>	<u>% of Total</u>	<u>#Blacks</u>	<u>% of Total</u>	<u># of Other</u> <u>Minorities</u>	<u>% of</u> <u>Total</u>
1960*	14,386	61%	8,460	36%	715	3%
1970*	8,131	50%	5,568	34%	2,683	16%

* taken from the 1960 and 1970 Census

	<u>#Whites</u>	<u>% of Total</u>	<u>#Blacks</u>	<u>% of Total</u>	<u># of Other Minorities</u>	<u>% of Total</u>
1978*	8,320	58%	4,280	30%	1,660	12%

The chart above shows how the white population in the South End dropped drastically (by 43%) between 1960 and 1970.

The BRA explains this as being the result of the conversion of lodging houses. In this case, white lodging house tenants were replaced by upper income white owners, their more affluent tenants, and a small number of more affluent black owners and tenants. The three census tracts which consistently have had the highest white population (703, 705, and 706) also had the highest number of lodging houses and subsequent conversions.

(See Seifel's Masters Thesis maps 4.3b and 4.3c). These areas have also been the most gentrified in the South End. (See chart A4-9 and other assorted charts). Low income whites were replaced by smaller numbers of upper income whites and a few minority people.

During this same period, the black population overall decreased by 34% as well. There was a net loss of 2,348 black people from the traditionally black neighborhoods in census tracts 707, 708, and 709 above. This was offset only slightly by the increase of blacks in the traditionally white neighborhoods in 703, 704, 705 and 706.

Between 1970 and 1978 the black population continued to decline in the areas where there had been strong black neighborhoods. At the same time, the white population stabilized and increased slightly, especially in those same, traditionally black,

* Taken from the 1978 Consensus Survey (5% sample multiplied by 20)

areas. As blacks moved out, whites moved in in even greater numbers.

Overall, the population in the impact area declined by 39% between 1960 and 1978. The white population declined by 42%, the black population declined by 49% and the Hispanic population increased. Thus, blacks have felt the effects of displacement more than any other group in the South End.

2. The Present Trend

The present trend of residential location shows, as this complaint demonstrates, that Copley Place will result in the substantial displacement of low and moderate income people. Minority people will make up a disproportionate share of these displacees. While non-whites make up 27% of Boston's population*, as of 1978, they made up 42% of the total population in the South End impact area and 61% of the two census tracts (707 and 708) where the ERA study says that the greatest displacement effect of Copley will be felt.**

The majority of the people who will be displaced as a result of the Copley Project will, therefore, be non-white. This is not only because minorities comprise a large share of the population in the most affected area, but also because a large proportion of the whites living in the larger impact area are upper income while most of the minority people are low and moderate income. The latter situation results from a pattern of gentrification in the South End, which began in the traditionally black neighborhoods. The upper income newcomers are predominantly white. The people they have replaced have, up until recently,

* p. 110 of the Draft UDAG application

** Taken from the 1978 Consensus Survey

been mostly lower income whites.

3. Segregation And Discrimination

Segregated neighborhoods and widespread discrimination in housing in Boston particularly disadvantage minorities who are directly or indirectly displaced by commercial or residential development.

The substantial numbers of minority people who are displaced from their homes as a result of Copley Place will find it impossible to locate decent, affordable housing. The severity of Boston's housing crisis has already been demonstrated, as has the fact that neither Copley Place, nor the City's efforts in housing construction will do much to alleviate it. Racial segregation and discriminatory housing practices make it especially hard for low and moderate income minority people to find housing. There are many neighborhoods in the City where minority people can't safely travel through, let alone live in.

Boston's residential segregation and discrimination has been well documented in numerous studies, including HUD's Housing Market Practices Survey of 1977. The Copley Place Project's displacement effect will result in the loss of Boston's only comfortably integrated neighborhood and one of the few sections of the City where minority people can find housing.

4. Past Discrimination

The effects of past discrimination in federally-assisted programs in Boston remain to be overcome.

HUD has itself identified some of the past discrimination in Boston's housing and community development programs and has

tried to combat it, with no clear success. Boston's CDBG application has been conditioned annually, with the only tangible result being that new stronger conditions have to be placed in the following year. The HIP (Housing Improvement Program) was singled out for a review of its compliance with anti-discrimination laws in 1979, and was found in non-compliance. In particular, the program was found to be most discriminatory in the South End. The review found that although 39% of all the homeowners in the South End were minority, only 17% of the recipients of HIP loans were. In Boston's year VI CDBG application, the HIP program has essentially been eliminated in favor of a more esoteric rehabilitation program, suggesting that the benefits of the HIP program will never reach minority homeowners in the South End.

The Section 312 loan program was also administered in a discriminatory fashion, especially in the neighborhoods where Copley Place will have its greatest impact. Preliminary information from a study of the 312 program indicates that while 63% of the owner occupant and 66% of the total population of census tract 707 were minority, only 41% of the recipients were. Similarly, while 72% of the owner occupants and 87% of the population in census tracts 708 were minority, only 31% of the recipients were.*

5. Employment

24 CFR 570.457(d) requires the Secretary to consider "the impact of the proposed project on the special problems of low

* The figures for population and owner occupancy were taken from the 1970 census. Information concerning the race of the recipients was provided by HUD.

and moderate income and minority people" in evaluating the merits of a UDAG proposal. Minority people in the City of Boston and in the Copley impact area are predominantly low and moderate income, and as such, face the same problems as all low and moderate income people: displacement, the inability to find decent affordable housing, and a difficulty in finding employment. As we have indicated above, these problems affect minority people in a special way because of the racial prejudice and racial tension which exist in the City. The only way in which the City claims that the Copley Place Project will address one of the special needs of low income and minority people is in the area of employment. Unfortunately, the weaknesses in the jobs agreement and its enforcement mechanisms which we have already described make it unlikely that many of the jobs will actually go to current low and moderate income and minority Copley neighbors. The vague, unenforceable hiring goals in no way constitute a benefit to minority people in the City of Boston.

B. APPROVAL OF THE COPLEY PLACE PROPOSAL WOULD VIOLATE TITLE VIII'S PROHIBITION AGAINST DISCRIMINATORY HOUSING PRACTICES AND WOULD OTHERWISE VIOLATE TITLE VIII

Section 804 of Title VIII states that it is unlawful to deny or "otherwise make unavailable" housing on the basis of race. The proposal itself documents both the unusual degree of minority representation in the population of the South End and the contrast between the racially mixed character of the South End and the lack of comparable minority representation in other parts of the City of Boston. It notes, "The South

End as a whole, comprises the most racially and ethnically mixed neighborhood in the City" and "During the 1970's, this same process of conversion/rehabilitation has reached much more deeply into sections inhabited predominantly by black residents and possibly accounts for the recent drop in black population." (See pp. 113-114.) On its face, the data provided indicates racially segregated housing patterns within the City of Boston and a difference in access to housing related to race. In fact, further analysis of population trends within the South End areas shows that relocation opportunities for blacks are dissimilar to those of whites.

The proposal states: "The largest impact on the housing market as a result of Copley Place is expected to occur outside of the study area in neighborhoods where the prevailing rent structure is more commensurate with the salaries of the project's employees. This impact will be diffused throughout the City..." If we accept that projection and also accept that the trend of residential change in the South End will simply continue, possibly at a declining rate, the most conservative estimate of the project's impact is that the black population affected will be forced to compete for housing in racially segregated and racially hostile neighborhoods where it is most likely to encounter housing discrimination and/or violence. The failure of the proposed project to include specific steps to stabilize minority tenure and access to the South End, while it anticipates a diffused housing impact, particularly along existing MBTA routes, is most likely to result in decreasing the supply of housing available to minorities within the City.

All of the information HUD has before it in its occupancy reports, and reviews of the CDBG program show that the housing market for blacks in Boston is different from the housing market for whites, and that there are deeply entrenched patterns of racial segregation. In this context, the proposed project, which, according to its own estimate will increase housing demand by 11-15% within its immediate area, will continue to have an adverse effect on the housing available to blacks and other minorities and add another major obstacle to desegregation.

C. APPROVAL OF THE COPLEY PLACE PROPOSAL WOULD VIOLATE TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI of the Civil Rights Act of 1964 U.S.C. 2000d, prohibits discrimination on the basis of race in all programs which receive federal funds. In Garret v. City of Hamtramck, 503 F.2d 1236 (6th Cir., 1974), HUD was found to have violated the provisions of Title VI by its approval of an urban renewal project in the face of information available to it that federal funds made available to the City were used to some extent to remove black citizens from the City. "In effect, the Department of Housing and Urban Development sanctioned the violation of plaintiff's rights when it could have halted any discriminatory practices contained in the program." The facts in the case bear a marked similarity to the current situation in Boston: black citizens were being disproportionately displaced by urban renewal; strong racial prejudices made it difficult to relocate blacks in the community; few plans were made by city officials to correct a known practice of discrimination by whites; and HUD had before it information bearing on the impact of past projects

and the potential effects of a proposed project on minority displacement. In Garret the Court ruled that HUD had an affirmative duty to insure the project would not result in further "Negro Removal" but rather would alleviate the problems previously created as well as those foreseen. While we do not assert that the City of Boston, in its urban renewal projects for the South End or its neighborhood revitalization strategies, adopted a deliberate policy of "Negro Removal", it is clear that much of the housing stock eliminated by renewal projects was located in minority areas and that, for the past decade, the effect of renewal and revitalization programs in the South End has been to decrease black residency disproportionately in that area. It is clear that city officials, including the Mayor, (whose 1980 Inaugural Address focused heavily on the City's racial problems) are aware of an extreme level of racial prejudice and discrimination in the City of Boston. It is also true that, in connection with the proposed Copley project, no plans have been developed to relocate residents displaced by the project or to assure that housing is available to families who are displaced on a non-discriminatory basis.

Unlike the situation in Hamtramck, however, the City of Boston does have in place a "Mayor's office of Fair Housing" and Mayor White has indicated that he will file, for City Council approval, a proposal to establish a Boston Commission Against Discrimination. Unfortunately, the operation of the Mayor's Office of Fair Housing has not been shown to have any effect toward eliminating housing discrimination in Boston, and there

is no assurance that the City Council will approve establishment of a City Anti-Discrimination agency or that, if approved, it will function to protect the rights of black households affected by Copley Place. Mere promises of improved civil rights efforts by the City cannot, particularly in light of the past record, be sufficient to fulfill HUD's duty to assure that its funds do not contribute to a discriminatory end.

HUD's own regulations pursuant to Title VI, 24 CFR 1.4 et seq. state that methods of administration of a program or activity which are likely to impair or defeat its objectives with respect to a particular race are prohibited. In the absence of a clear and proven plan to assure non-discrimination in housing in Boston, not only for minority residents of the neighborhoods likely to be affected, but also for minority workers and employees to be provided jobs in connection with the project, the objectives of economic revitalization which the project is designed to achieve will be defeated for this group. Such minor economic gains as might be made by blacks employed through the project are insufficient to balance the increased housing and transportation costs they will have to bear as a result of the project's execution in the context of Boston's discriminatory housing market.

VII. THE UDAG APPLICATION SHOULD BE REJECTED BECAUSE OF ITS UNCERTAIN ENVIRONMENTAL STATUS

✓ A. HUD REGULATIONS REQUIRE REJECTION OF PROJECTS REQUIRING SUBSTANTIAL ADDITIONAL PLANNING

Hud should not fund the Copley Place project. It will take months and possibly years for the developers and the City to complete the environmental review required by state and federal law. The 19.5 million dollars requested could be better spent on other projects which could begin in the near future and which would not have the negative effects associated with Copley Place.

One of the major selection criteria under the UDAG regulations, 24 CFR §570.450 et seq., requires HUD to inquire into the time it will take a developer to complete the administrative work prior to beginning actual work on the project. 24 CFR §570.457(i) provides:

Proposals will be considered to have a lesser degree of feasibility if they involve substantial additional planning, lengthy start-up time, or are subject to such potential obstacles as environmental or legal constraints.

Further, an application must contain a timetable for completion of all required pre-funding tasks in the application, 24 CFR §570.457(c)(5). Finally, no funds will be released by HUD until the recipient certifies, among other things that it has completed the appropriate environmental review. 24 CFR §58.30.

B. COPLEY PLACE REQUIRES SUBSTANTIAL ADDITIONAL ENVIRONMENTAL PLANNING

1. The Design of the Project Remains Tentative

Even now, after submission of the UDAG application, UIDC

must still perform numerous studies and draft many plans before it will be able to complete the necessary environmental steps. An applicant must comply with the HUD regulations concerning the environment. 24 CFR §58 et seq.

These regulations require that the proposed recipient must submit a draft Environmental Impact Report (EIR) to HUD and distribute it to all interested citizens or citizens' groups for comment. It should also be submitted to any state agency with jurisdiction over environmental concerns.

Once citizens comment, the applicant must review the comments, make appropriate alterations, and address the comments in a final Environmental Impact Statement (EIS). The applicant also must receive state approval. Only after this process is finished is the environmental process complete.

Copley Place is far from completing this review. This project has caused controversy ever since its inception in 1977. As a result, it has taken over three years to create the present EIR which merely begins the detailed focus on specific environmental problems caused by the project. Once the original design was announced, it took over a year to prepare a draft EIR.

When the market for retail stores softened, U.I.D.C. altered its design in December, 1978. It then took over fifteen months to develop a new draft EIR for this design and fourteen meetings with the Citizen Review Committee. Any change in design requires much time consuming reevaluation of environmental impact.

It is hard to imagine a worse time to design and plan a development of this magnitude. The economy is now in constant flux with interest rates rising and falling daily. The economy is heading into what many predict to be the deepest recession

since 1940. Planning for Copley Place, then, must be somewhat inexact now. The present design was only ten percent completed in February, 1980 when the draft EIR was submitted. The developer even admits that it still must submit design proposals to the Citizens Review Committee (for discussion of the evolution of the environmental studies, see chapter three of the draft EIR and pp. 163-169 of the application).

2. The Environmental Review is Still in the Preliminary Stage

It will take months to properly prepare the final EIS. After reviewing the draft EIR and digesting voluminous citizen comment, the state environmental agency (MEPA) instructed the developer on April 4, 1980* to engage in numerous studies and alterations prior to submitting the final EIS. These requirements are substantial and undoubtedly will consume a large amount of time and money. Among the most significant tasks directed by MEPA are:

(a) Shadows -- the developer must create diagrams of the shadow impacts on Copley Square. This is important especially because of the historic importance of Trinity and Old South Churches. It must also study mitigating measures and evaluate the feasibility of each alternative.

(b) Wind -- Wind tunnel tests must be performed. If they indicate excessive impacts, mitigating impacts must be considered. The developer must then make firm commitments to the measures decided upon. The report from the wind tunnel studies must be delivered to each person who received the draft EIR. Also, the

* Certificate of the Secretary of Environmental Affairs on the Supplemental Draft Environmental Impact Report.

report must be published in the Monitor and a twenty day period must be allowed for comment on the test report.

(c) Dewatering and Construction Impacts -- MEPA requires that studies and commitments must be made in the final EIS to technology which will limit the effects of potential dewatering and other construction impacts.

(d) Historic -- The developer has not even submitted a draft of the effect of the project on the historical sites in the surrounding neighborhoods.

(e) Traffic -- MEPA has ordered studies and redesign of several aspects of the traffic design submitted in the draft EIR. Over ten traffic areas must be restudied and numerous ramps must be redesigned.

(f) Air Quality -- Receptors for venting carbon monoxide fumes must be reevaluated and new design alternatives must be considered. A new study done with another persistence factor for the air analysis must be performed.

(g) Parking -- The final EIS must contain a discussion of the feasibility, timing and implementation of a resident sticker program in the surrounding neighborhoods.

(h) Transit -- Study the feasibility of implementing a four-day work week in certain Copley Place offices.

(i) Pedestrians and Circulation -- More design and evaluation work is required including redesigning ramps, studying new pedestrian crossings, estimates for pedestrian crossing time and necessary queuing areas, systematic consideration of circulation routes,

consideration of access for residents of the South End particularly if community shops are considered in the final design, and finally, detailed presentation of the pedestrian view.

(j) Noise -- Must study mitigating factors and commitments made.

(k) Water Supply/Sewer -- Study where used water will go, study the extent use of low volume shower heads and toilets mitigate the demand for water and study the feasibility of using other water conservation measures.

(l) Visual Quality -- The quality of reproductions was so poor, nothing about visual quality could be determined. The final EIS must contain drawings and other means of reproduction and should include a representation of the new skyline as seen from Boston Common. A slide show is advisable.

It is quite obvious from the above list that many design changes may be necessary to minimize environmental concerns. Of course, design changes require more citizen input and developer reevaluation. Thus, common sense indicates that a thorough and complete compliance with the MEPA redesign and study requirements along with appropriate citizen input could take a very long time. The final EIS is a distant fix on the horizon.

Copley Place is an enormous undertaking set in the middle of one of America's most complex urban areas. Studies thorough enough to protect this delicate city structure will require much more time and effort. Already numerous groups have submitted comments on the environmental studies to date. It will take much more time to prepare final studies which accurately depict the

effect on the environment by the proposed Copley Place project. Allocation of funds to the project would divert much needed dollars from other more timely UDAG applications, would potentially cause great environmental damage, and would defeat the purpose of the Act.

✓ C. THE PROGRAM WILL HAVE AN ADVERSE IMPACT
ON THE NEIGHBORHOOD ENVIRONMENT

1. Energy

✓ Copley Place has ignored vital national and local concerns regarding energy conservation. The project planners have not made a serious attempt to assess whether or not better methods could be designed to achieve more energy efficiency. It would seem logical that no project on the scale of Copley Place should be funded with public dollars unless adequate energy studies are completed.

✓ The project involves the construction of several high rise buildings and retail shops. The present plan is to supply all the energy needs of these structures with electricity supplied by the local public utility, Boston Edison. Apparently, the developers have accepted without question or study the traditional, but outmoded, concept that electricity is the best energy solution.

✓ The developers have made no study of the life cycle costs resulting from the electricity option. The draft EIR only provides the energy requirements for 1979. No information has been made available regarding the supply and costs through the life of the project. It would be a tragedy to fund a project in 1980 that will be an energy white elephant in the year 2000.

There has been no study of the use of alternative energy sources such as solar power. There has been no published con-

sideration of insulation alternatives. The Commonwealth of Massachusetts will file a new set of comprehensive regulations which will require certain conservation measures in all new buildings. Yet Copley Place has not considered design proposals which will comply with these new regulations.

Although the project will be encased in glass, the developers have not supplied the public with information essential to determine if this is the most energy efficient method of encasing the buildings. Obviously, the type of glass used will have a tremendous impact on a building's retention and absorption of solar heat.

Another reason rote acceptance of the electricity alternative appears extremely shortsighted is that the developers admit that the present Boston Edison system is near to capacity. Copley Place defends its excessive electricity demand by claiming the system's capacity will be dramatically increased by the Pilgrim II nuclear plant. The developers assert the plant will be working in 1984. Boston Edison has temporarily shelved its plans for Pilgrim II making this projection mere conjecture. This estimate is thus hopelessly optimistic, and, Copley Place will be taxing the system's limited capacity to the detriment of the present users.

Further reliance upon nuclear power in itself is a questionable strategy. The nuclear industry has received much public attention since the Three Mile Island disaster. The federal government is drafting new regulations for plants and lawmakers have even suggested banning nuclear plants. Reliance upon nuclear power should be discouraged until its use has been settled and approved.

As a result of the nation's commitment to energy conservation, numerous economically feasible conservation devices have proliferated. Copley Place has not investigated or studied these new technological alternatives. The Fenway Energy Organization report details certain cement techniques which save energy. It also analyzes insulation and glass advances which need to be considered.

It is incredible to think that the federal government would fund a project with such an energy impact without requiring at least a study of conservation alternatives. The time to think of conservation is now in the design phase. Once a project is constructed, the conservation options decrease. Our national policy demands that conservation assume a priority in determining where public money will be spent.

2. Shadows

The draft EIR admits that the tall structures, especially the large hotels will cast long shadows over the northern areas adjacent to Copley Place. In a New England city, sunlight is a precious item as it provides warmth and comfort. Copley Square was designed to be an open area surrounded by lower level buildings. Copley Place will directly abut the southern quadrant thus totally encasing the square with rather large buildings. These buildings will shadow the Square during the entire winter afternoon.

Copley Square is unique because it attracts a tremendous volume of casual pedestrian traffic, many of whom come there solely to sit in the sun. With shadows, especially during the winter, people will be discouraged from sauntering and sitting

in the square. The huge structures will greatly dehumanize the square and intimidate casual pedestrians. Even the famous stained glass windows of Trinity Church would suffer an esthetic loss.

Boston is unique. It is known for its beauty and grace due largely to the attractive pedestrian spaces. Copley Place would destroy one of the most liveable spaces in the City and be one further change from a city of charm to one of urban inhumanity.

3. Traffic

The increased traffic due to Copley Place will have a dramatic and detrimental impact on the streets surrounding the project. The proposed construction site is surrounded by four residential neighborhoods with narrow streets and high resident density: the Fenway, the South End, Back Bay and St. Botolph.

The streets in these neighborhoods, especially the Fenway, are already congested. It is not uncommon to wait for several minutes at stop lights within the area. In section six of the draft EIR, the developers rated the traffic level in 1978 at various major intersections. Of the nineteen intersections, nine were rated as stable, seven were approaching an unstable flow, and three were unstable.

Next the draft EIR states that projections of the increased traffic flow for the years 1983 and 1995 were seven percent and twenty-two percent respectively. Therefore, without Copley Place traffic can be expected to convert the cited intersections from

stable to unstable on forced flow (where traffic is jammed).

In addition the draft EIR does not rate the major intersections in the South End or the Fenway. For instance, they ignored the intersections of Huntington Ave., Columbus St. Botolph and Tremont along Massachusetts Ave. Anyone who drives along Mass. Ave. can attest that these omitted intersections are hopelessly congested during peak hours.

The draft EIR estimates that over 20,000 people per day will flood into the Copley Place project. After an intricate but totally unsubstantiated review, the draft EIR makes the assertion that relatively few cars will be attracted to the streets because of the project. It is unthinkable that the influx of such a vast number of people would not substantially congest already overcrowded streets.

The draft EIR after the convoluted analysis of traffic patterns, has a chart which purports to show that there would be no congestion problems as a result of the project. (EIR chart, p. 7-58). However, the chart only sets forth the density rating of four intersections. In addition, the draft EIR does not project the effect for later years when the flow is projected to increase up to twenty-two percent even without Copley Place.

The draft EIR absolutely ignored the effect on residential streets other than the major traffic arteries. The surrounding areas contain mostly small residential streets, many within easy walking distance of Copley Place. Yet no analysis has been done of the increased flow on these streets. Nor was a parking analysis done for these streets. Boston drivers, like drivers of any city,

will park on the side streets within walking distance, especially when parking garage rates are so expensive.

The draft EIR fails to account for the increased traffic flow due to projects already planned or under construction. For instance, in the Fenway, the Sage Hotel and an extension of Hynes Auditorium are planned. These will certainly increase traffic, but again the draft EIR disregards these additional projects in its traffic study.

It is difficult to place serious reliance upon the traffic study in the draft EIR. The data bases are unclear. The study jumps from time period to time period, making comparison impossible. It makes assumptions, favorable to the developer, which are not supported by the facts.

It is obvious that the huge daily influx of people into Copley Place will complicate the traffic in the surrounding neighborhoods. The pseudo-study in the draft EIR cannot hide the awesome congestion which will be a direct result of Copley Place.

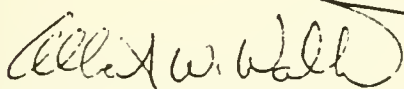
VIII. CONCLUSION: HUD CANNOT AND SHOULD NOT
GRANT A UDAG FOR COPLEY PLACE

As demonstrated above, a UDAG to build Copley Place is totally inappropriate since the City of Boston is ineligible to receive UDAG funds. There is also substantial reason to doubt that construction would require the use of UDAG funds.

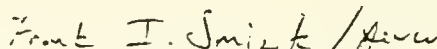
The proposed development would not address the special problems of low and moderate income persons or minorities; would not contribute towards achieving equal opportunity for people of color; and would not enhance the environment in the impact area or beyond. To the contrary, Copley Place would harm low and moderate income persons and minorities and would likely have a significantly negative environmental impact.

For these reasons, we request that you deny the City of Boston's application for UDAG funds to build Copley Place.

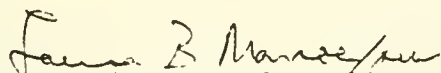
Respectfully submitted,



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On behalf of:

ALL CITY HOUSING ORGANIZATION
(Cole Harrison, Michael Kane,
Kathy Gannett, and Jean Ratcliffe,
Executive Committee)
10 West St., 2nd Floor
Boston, MA 02109

And its member organizations:

- SOUTH END PROJECT AREA COMMITTEE
- SYMPHONY TENANTS' ORGANIZING PROJECT
- BACK BAY-BEACON HILL TENANT ORGANIZATION
- CITY LIFE
- COLUMBIA POINT NEIGHBORHOOD SERVICE CENTER
- EDUCATION INSTRUCCION
- TENANTS' POLICY COUNCIL

CHINATOWN HOUSING AND LAND
DEVELOPMENT TASK FORCE
c/o Quincy Community School
885 Washington St.
Boston, MA

Memorandum

U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

Exhibit

1

TO : Marvin Siflinger, Area Manager, 1.15
Attn: Robert Paquin, Director CPD Division,
1.1C

DATE: 3/31/80

IN REPLY REFER TO:
1.1E

FROM : Robert N. Upshur, Director, Fair Housing & Equal Oppor-
tunity Division, 1.1E

SUBJECT: FHEO Annual In House GPR Review

Grantee Boston, Massachusetts

Grant # B-79-MC-25-0002

The following are this Division's findings and recommendations result-
ing from a review of the subject Grantee's performance in administering
its obligations in compliance with FHEO requirements.

Summary	Require Assurances	Continue Assurances	Terminate Assurances	Require Conditions	Continue Conditions	Other
1. Fair Housing						
2. Employment						
3. MBE						
4. Benefits						
5. Other						

I. Fair Housing (Title VIII, CRA 1968/E.O. 11063)

Block Grant Applicants provide assurances that they will take Affirmative
Actions under Title VIII and E.O. 11063, to further fair housing in the
administration of Housing and Community Development Programs. The assurance
also applies to the private housing market. Affirmative Actions are specific,
substantive actions that must be taken each year which will have the effect
of furthering fair housing.

Under the City of Boston's Year IV CDBG Application, HUD determined under Section 570.909 that the fair housing component of the Applicant's community development program lacked the necessary concentrated activities designed to achieve racial attitude change and open access by minorities to all sections of the City. Recognizing the long range nature of this problem HUD imposed certain contract conditions in the Year IV Grant Agreement which were primarily aimed at institutionalizing a framework through which remedial programs and activities could be taken. HUD has determined under Section 570.909 that in furtherance of the initiatives taken in accordance with the Year IV Grant Agreement, it is necessary for the Applicant to enter a second phase of its Fair Housing Program which will provide a basis for sound planning and a broader range of fair housing activities.

Consequently, the following conditions are made a part of this Agreement:

1. Conditions

- A. That the City develop, with the Boston Area Office and a representative of a local academic institution, a system of evaluating fair housing progress.
- B. That the City appoint citizens, in consultation with HUD, to a Fair Housing Advisory Board. This Board shall be of a workable size and sufficiently broad in representation to insure the involvement of all segments of the community. The composition of the Board shall be representative of those citizens whose welfare is or will be affected by the City's community development and housing programs.
 1. develop a 3 year plan for Fair Housing containing goals and timetables.
 2. develop a fair housing strategy to enhance freedom of choice in the City for all minorities.
 3. review and comment upon the Community Profile developed by the City.
 4. analyze and determine from information available through the Home Mortgage Disclosure Act, State Banking Commission and NCAD or other data whether any mortgage lending patterns and banking practices have a negative effect on access to housing.

5. evaluate and monitor the provision of public services, real estate and banking practices, and development and rehabilitation policies in neighborhoods experiencing racial transition and in integrated neighborhoods.

- C. That the City develop a Community Profile. The community profile will include the following information updated to the most current year possible. HUD will use the data collected to make those determinations required pursuant to 24 CFR 570.311(c).
- D. That the City plan and execute the following programs
 1. Housing Testing Program - develop and implement a program for housing testing both in response to specific complaints of discrimination and as a tool in identifying the existence of discriminatory barriers to housing access.
 2. Development and Submission to City Council for Passage of a Fair Housing Ordinance - It is expected that the Ordinance will provide for both investigation and enforcement authority including monetary penalties for any violations thereof.

In the planning and execution of these programs the City may consult with the Advisory Board.

- E. That the City continue the Mayor's Office of Fair Housing (MOFH) as an on-going entity in the City's organizational structure.

II. Fair Housing

- A. The City will continue to implement the Metropolitan Fair Housing Agency Special Assurance given to HUD by the City in connection with the Year IV CDBG funding approval.
- B. The City will provide special assurances including a timetable for implementation for the following:
 1. expand the housing counselor's program;
 2. monitor affirmative marketing activities of real estate developers; and
 3. enter into HUD's Voluntary New Horizons Program
- C. The City assures that the fair housing programs initiated by the City pursuant to the Year IV Funding Approval shall continue to be carried out by the City through Program Year V.

The Fair Housing special assurances as provided by the City are expressly supplemental to the Fair Housing contract conditions imposed by HUD, and the implementation of said special assurances shall in no way diminish the requirements of HUD's Fair Housing contract conditions. In the event of overlap or inconsistency between the Department's fair housing conditions as set forth above and the City's special assurances, HUD's Fair Housing contract conditions shall prevail.

A. Conditions

1. Fair Housing Evaluation - (condition):

A fair housing evaluation committee has been established and began meeting in January, 1980. A proposal for the development of an evaluation system was to be submitted in late March. Late June early July has been contemplated as a target date for project completion.

Due date: The establishment of this program was originally scheduled for 90 days after contract initiation. Even with an extension, the program is behind schedule.

2. Fair Housing Advisory Board - (condition):

Potential Board members have been identified, but the Board has yet to be officially established. Concomitant functions have not been addressed.

Due date: This was originally scheduled for 70 days after contract initiation. Even with an extension, the condition is behind schedule.

3. Community Profile - (condition):

A final draft has been prepared and submitted to this office.

4. Housing Testing Program - (condition):

Reports from the City have indicated that this program has been tied to the Fair Housing Ordinance. As the Ordinance has not been finalized, nor submitted to the city council, the realization of this program is in jeopardy.

5. Fair Housing Ordinance - (condition):

According to the Grantee Performance Report, the ordinance is in an initial draft form and relevant materials have been submitted to HUD as had been mentioned, it has yet to be presented to the city counsel.

6. Establishment of the MOFH as a Permanent Department - (condition):

This effort has also been linked to the Fair Housing Ordinance.

B. Special Assurances

1. Formation of a Metropolitan Fair Housing Agency - (special assurance)

A draft proposal was prepared by the Citizens Housing and Planning Association (CHPA) and circulated for review during the month of March. A copy of the draft was submitted to HUD.

2. Expansion of the Housing Counseling Program - (special assurance):

Recent reports from the City have signaled some setbacks for this program, including:

- a) The resignation of the only Bilingual Hispanic Housing Counselor;
- b) The contract between the City and the Chinese - American Civic Association terminated at the end of February, 1980;
- c) Dates for hiring and training of new personnel have been postponed indefinitely;
- d) Several of the offices have only limited coverage;

3. Monitoring of Affirmative Marketing - (special assurance):

Services are being provided on call.

4. Signing of New Horizons Agreement - (special assurance):

The signing of this agreement has been continuously delayed due to apparent scheduling conflicts.

The following is FHEO's Review of the Affirmative Actions of the subject grantees:

- A. Has a Fair Housing Plan been submitted
NO _____ YES X Approved NO _____ YES 7/78 date
- B. Is the grantee a participant in a Community Housing Resource Board
NO _____ YES 11/4/76 date
- C. Has the grantee joined the New Horizons Program NO X YES _____ date
- D. Has the grantee participated in an AHOP NO _____ YES 10/79 date
- E. Other Fair Housing Activities Submitted (list)

~~SEE ATTACHED~~

- F. Has the grantee been required to submit Special Assurances in prior years NO _____ YES FY 1978, 1979
- Were assurances acceptable NO _____ YES _____ date

Comment:

- G. Has the grantee had conditions imposed in prior years NO _____ YES FY
- List conditions or see attachment

1979 Special Assurances

(C) City Employment

The City will continue to operate under the City Employment Special Assurances given to HUD by the City in connection with the Year IV CDBG funding approval. Additionally, the City will provide special assurances that:

1. special efforts will be made to hire minorities in the Special Emphasis departments;
2. goals and timetables will be established and submitted to HUD regarding promotions of minority employees;
3. training programs will be established to assist the promotion efforts referenced in 2 above.

II. Employment

Section 4(a) of the Grant Agreement requires the recipient to take affirmative action to ensure that employees are treated during employment without regard to their race, color, religion, sex or national origin. Also, where the percent of minorities and/or women employed by the applicant does not reflect the percent of minorities and/or women in the Labor Market Area, (LMA) or the total population of the applicant's jurisdiction, whichever percent is higher, the recipient must demonstrate actions in expanding job opportunities for minorities and/or women.

The following is FH&EO's review of the applicant's affirmative actions to promote employment opportunities for minorities and/or women.

A. <u>LMA</u>	<u>Jurisdiction</u>	<u>Utilization</u>
Total population		
2,753,700	641,071	3,539
Minority <u>181,368</u> (7%)	Minority <u>131,956</u> (20.6%)	Minority <u>536</u> (15%)
Female <u>1,450,544</u> (53%)	Female <u>345,831</u> (54%)	Female <u>827</u> (23.4%)
B. <u>Hires</u>	<u>Terminations</u>	<u>Promotions</u>
Total: 272	Total 121	Total 141
Minority <u>43</u> (15.8%)	Minority <u>27</u> (22.3%)	Minority <u>28</u> (19.9%)
Female <u>67</u> (24.6%)	Female <u>41</u> (33.9%)	Female <u>65</u> (46.1%)

Source:

1970 Census, "General Population characteristics, table 23
1970 Census, "General Social & Economic characteristics, table 81

Special Assurances: Employment.

(1978)

(1979)

1. Hiring of Minorities in Special Emphasis Departments - (special assurance):

	Total	Min.	%	Total	Min	%
Administrative services	43	3	7	43	3	7
Auditing	58	3	5	60	3	5
Real Property	155	1	.6	153	1	.65
Buildings	122	4	3.3	122	4	3.3
OMB	22	2	9	24	2	8
Mayor's office	105	20	19	103	20	19
Parks & Recreation	454	42	9.3	488	44	9
Civilian Police	288	10	3.5	304	11	3.6
Public Facilities	85	5	5.8	96	6	6.3
Public Works	668	56	8.4	741	76	10.3
Treasury	53	4	7.5	50	4	8

2. Minority Promotions - (special assurance):

Although goals and an annual timetable were submitted by the City on October 9, 1979, they address hiring and utilization only, not promotions. In review of the recipient employment submitted with the GPR, promotions of minorities have been generally comparable with the previous year (1979- 19.9%, 1978- 20%).

3. Minority Training - (special assurance)

The "Managing for Productivity" program was scheduled to be given several times throughout the year according to a letter dated June 23, 1979. No further reporting on this or any other upward mobility activities has occurred.

EMPLOYMENT

1978

1979

UTILIZATION

Total	3328	3539
Female	776 (23%)	827 (23.4%)
Minority	504 (15%)	536 (15%)

HIRING

Total	387	272
Female	141 (36.4%)	67 (24.6%)
Minority	116 (29.9%)	43 (15.8%)

TERMINATION

Total	323	121
Female	136 (42%)	41 (33.9%)
Minority	54 (17%)	27 (22.3%)

PROMOTIONS

Total	155	111
Female	66 (42.5%)	65 (46.1%)
Minority	31 (20%)	28 (19.9%)

Overall Minority Employment Goals:

1. Minority utilization of 16% by December 31, 1978 and 18% by June 30, 1979.

Source: Special Assurances 1978 referred to in GPR for 1978 and attached memo of 6/26/78.

2. An analysis of the above would indicate the City to be behind schedule in its minority utilization goals.

C. Has applicant submitted tables for minority and female employment.

NO YES 2/10/78 Approved NO YES date

D. Comments:

E. Other Employment Affirmative Actions submitted (List).

-SEE ATTACHED-

F. Has the grantee been required to submit Special assurances in prior years.

NO YES FY 79 Were Assurances acceptable NO YES date

G. Comments:

H. Has the grantee had conditions imposed in prior years NO YES FY 79 List conditions or see attachments.

-SEE ATTACHED-

CITY OF BOSTON

ACTIVE THREAT	8/79	9/79	10/79	11/79	12/79	1/80	2/80	3/80	4/80
			NO REPORT	217	272	NO FURTHER REPORT			
TOTAL	39	61							
	(13%) 5	(10%) 6		(18%) 40	(17%) 46				
MALE									
	(33%) 13	(29%) 18		(26%) 57	(25%) 67				

Minority Entrepreneurship (MHE)

OMB Circular A-102 and EO 11625 requires that positive efforts should be made by the applicant to utilize small business and minority-owned business sources of supplies and services.

The following is FMEEO's review of the applicant's progress in awarding contracts to minority contractors and minority-owned firms.

Contract Awards

A. Prime

Total	Min. Const.	Min. Supply	Min. Service
\$15,958,250	\$596,234	\$ 0	\$749,797

Total M = 1,346,031

(8.4%)

(3.7%)

(0%)

(4.7%)

B. Sub

(Note: 1978 M = 10.5%)

Total	Min. Const.	Min. Supply	Min. Service
\$2,704,960	\$1,633,660	\$49,400	\$178,000

Total M = 1,861,060

(69%)

(60%)

(1.8%)

(6.6%)

C. Prime

Total	Female Const.	Female Supply	Female Service
\$15,958,250	\$ 0	\$ 0	\$106,000

Total F = 106,000

(.7%)

(.7%)

D. Sub

Total	Female Const.	Female Supply	Female Service
\$2,704,960	\$ 0	\$ 0	\$ 0

E. Has applicant submitted an Affirmative Action Plan with goals and time-tables for utilization of minority contractors and entrepreneurs.

YES X

NO

Approved

YES X

NO

Comment:

F. Other MRF Actions submitted
(list)

G. Has the grantee been required to submit Special Assurances in prior
years NO _____ YES FY 79

Were assurances acceptable NO _____ YES X

H. Has the grantee had conditions imposed in prior years NO X YES _____

1. (Name not printed) (11/10)

2. Has the examinee been reported to school? (11/10)

Have you been notified by the school? (11/10)

3. Has the examinee been notified by the school? (11/10)

IV. CHGG Program Activities

Section 109 of the H & CD Act of 1974 and Title VI regulations require that a recipient which has previously discriminated against persons on the grounds of race, color, national origin, or sex must take affirmative action to overcome the effects of prior discrimination. In the absence of prior discrimination, a recipient should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin, or sex. This requirement applies to employment and other benefits.

The following is FHEO's review of households benefiting from activities.
(List)

- 1) LA ALIANZA HISPANA - Operating expenses
- 2) Brookside FLC - Operating expenses
- 3) Uphams Corner Health Center
- 4) Dimock Health Center
- 5) Roxbury Multi-Service Center
- 6) NICE/RAMA Day Care
- 7) Community Training Dynamics
- 8) Hispanic Homeownership
- 9) Mattapan Square Image program

A. Has the grantee been required to submit Special Assurances in prior years.

NO X YES _____

Were assurance acceptable NO N/A YES _____

Comment:

B. Has the grantee been required to submit conditions imposed in prior years.

NO X YES _____

There is no evidence which indicates that minorities are not benefiting from this program.

Attachment A.

Monitoring (Fair Housing, Employment, MEE, Benefits)

The grantee, _____ was monitored by FHREO
city or town

staff on _____
date(s)

(see monitoring visit report attached)

IV. The grantee will be monitored _____

1. The following information is being furnished to you:

The following information is being furnished to you:

The following information is being furnished to you:

The following information is being furnished to you:

The following information is being furnished to you:

2. The Actions taken by the grantee shows:

- ☐ Outstanding Progress ☐ Highly Satisfactory Progress
☐ Satisfactory Progress ☐ Marginally Satisfactory Progress
☐ Unsatisfactory Progress

☐ Progress has been made; but it is insufficient to warrant removal of Special Assurances or Conditions.

D. Recommendations

- ☐ 1. Require Special Assurances
☐ 2. Continue Special Assurances
☐ 3. Terminate Special Assurances
☐ 4. Require Conditions
☐ 5. Continue Conditions
☐ 6. Terminate Conditions
☐ 7. Other (specify)

Phillips
Director

CITY OF BOSTON
IN CITY COUNCILExhibit [2]MINORITY REPORT OF COMMITTEE ON PLANNING AND DEVELOPMENTRE: DOCKET # 0138

This docket concerns an order the passage of which would record the City Council as approving an application to the federal government for approximately \$20 million of UDAG funds to help various large business corporations fund a private real estate project in the Back Bay. The order states that the Council in approving application, among other things, finds:

1. That the proposed project will produce significant tax benefits to the city.
2. That the project requires funding in the amount of approximately \$19,724,000 to go forward.

Though the order (marked docket #0138) has been before your committee since January of this year, the application which the order would approve has never been submitted to the Council or to this Committee. The application in an incomplete form was, however, distributed to the membership of the Committee within the past week and hearings were held by the Committee on the order without the complete application and without a stenographer on April 28 and 29, 1980. Now on April 30, 1980 the Council is being asked to approve the application which will be before the Council for the first time today and will, therefore, require that the Council rule requiring that such matters be referred to Committee, be suspended.

page 2.

During the past couple of days both in testimony before the Committee and in the media much has been made of two issues, the future development of the so called "Tent City" site and the matter of minority, female and residential representation in the work force. Admittedly, these are matters of some importance and ostensibly they have been resolved. The media now urges us to look no further, since, as they see it, those were the big issues and they have been resolved there is nothing to do but approve the application.

But the Tent City and employment issues, however important they might be, are not the issues we are being asked to decide today. The most important questions today are twofold: How much tax revenue will the city get from this project? Does the project require \$20 million of public money to get off the ground? These questions haven't even been raised, much less studied, by the Council.

Those decisions, under federal law, are to be made not by the Mayor and the BRA but by this Council. And the Council simply has not had time to get the kind of information it needs to decide these questions.

There are also the serious issues of the amount of housing within the project area, the amount of the developer equity in the project and the amount of interest to be paid by the developer which should be discussed and decided before approving the application.

Accordingly it is, therefore, recommended by this member of your Committee that the order be passed in the following new draft:

page 3.

BE IT, THEREFORE,

ORDERED: That the Mayor, acting on behalf of the City of Boston, be and hereby is authorized to apply for financial assistance from the U.S. Department of Housing and Urban Development under the Housing and Community Development Act of 1977 (P.L. 95-128), for an Urban Development Action Grant, in an amount not to exceed Nineteen Millicn Eight Hundred Thousand Dollars (\$19,800,000) and in connection therewith to execute and deliver such documents as may be required by the Federal Government and to act as the representative of the City of Boston in connection with said application, provided, however, that any or all of the following proposed amendments, numbered 1 to 6, herewith attached as are today separately voted, are added hereto:

AMENDMENT 1.

An independent consultant retained by and answerable only to the City Council shall analyze the financial aspects of the project and certify to the Council that the project cannot be built by any developer without a UDAG in the amount set forth in the said application.

AMENDMENT 2.

The said application guarantees that the developer is bound by written agreement with the city to pay in each year, for the first 20 years after leasing the land from the MTA, not less than fifty percent of the tax that would be due the city on an assessment of full fair market value of the real property within the project area at the tax rate set by the city for each such year.

page 6.

AMENDMENT 3.

The developer is also so bound to provide a minimum of two hundred units of housing within the project, 25 percent of which will house low-income people.

EXHIBIT 1.

The developer is also to provide a minimum of two
hundred units of housing within the project. 25 percent of which
will house low-income people.

AMENDMENT 4.

The developer shall prove to the satisfaction of the United States Department of Housing and Urban Development that it has and/or is in a position to invest and will invest \$50 million of private equity funds in the project, exclusive of borrowing secured by mortgages on the project real estate and exclusive of funds obtained by means of an Urban Development Action Grant from the federal government.

AMENDMENT 5.

The developer shall pay to the City as interest on the loan of funds obtained under this application not less than ten percent per annum.

AMENDMENT 2

The developer shall pay to the City an interest on the loan
of funds obtained under this application not less than ten percent
per annum.

AMENDMENT 6.

So much of docket #0138 that has to do with authorizing the Mayor to expend funds pursuant to G. L. C.44, Sec. 53A remain in or be remanded to the Committee on Planning and Development.

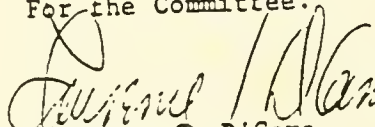
CITY OF BOSTON
IN CITY COUNCIL

Exhibit 13

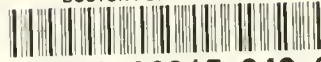
April 30, 1980

The Committee on Planning and Development to which was referred 3/12/80 Docket #0138 "Order for authorization for application and expenditure of UDAG Grant of \$19,800,000. for Copley Place", having considered the same, submits a report recommending that the order be reported out of Committee with NO RECOMMENDATION.

For the Committee:


Lawrence S. DiCara
Chairman

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